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Apple Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ASHLEY GJOVIK,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 23-cv-4597-EMC

**DEFENDANT APPLE INC.'S  
ADMINISTRATIVE MOTION AND  
[PROPOSED] ORDER TO STAY  
APPLE'S DEADLINE TO RESPOND  
TO PLAINTIFF'S MOTION TO  
AMEND & SUPPLEMENT  
COMPLAINT [DKT. 155]**

Judge: Hon. Edward M. Chen

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16 Apple Inc.

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1 Pursuant to N.D. Cal. Civil Local Rules 6-3 and 7-11, Apple Inc. files this administrative  
2 motion to stay Apple’s deadline to respond to Plaintiff’s Motion to Amend & Supplement  
3 Complaint (“Motion to Amend”) (Dkt. 155).

4 The Court is currently scheduled to hear Apple’s Motion to Dismiss Plaintiff’s Fifth  
5 Amended Complaint (Dkt. 145) on February 21, 2025; that motion is fully briefed, with Plaintiff  
6 having filed her (overlength and untimely) opposition (Dkt. 150) on January 22, 2025 and Apple  
7 having filed its reply (Dkt. 152) on January 28, 2025. Rather than waiting for the Court to consider  
8 and decide the Motion to Dismiss focused on the operative complaint, Plaintiff filed a Motion to  
9 Amend on January 31, 2025—along with an untimely (ten days late) Request for Judicial Notice  
10 (Dkt. 154), and a separate Motion to Disqualify the undersigned firm as counsel for Apple (Dkt.  
11 156). Apple asks this Court to stay Apple’s deadline to respond to the Motion to Amend pending  
12 the February 21, 2025 case management conference and Motion to Dismiss hearing in this matter,  
13 at which time the Court could set an appropriate briefing schedule if it intends to entertain the  
14 Motion to Amend.<sup>1</sup> Apple asked Plaintiff to stipulate to this relief (pursuant to Local Rule 6-2(a)(2))  
15 but Plaintiff did not do so. *See* Riechert Decl. filed herewith, ¶2.

16 Plaintiff’s improper Motion to Amend is part of a pattern of conduct from Plaintiff that  
17 flouts applicable rules, prejudices Apple by requiring expenditure of time and resources to address  
18 improper filings, and improperly burdens the Court. *See* Nov. 19, 2024 Order (Dkt. 137) at 3 (noting  
19 Plaintiffs’ repeated “violations of [the Court’s] orders” including her failure to comply with page  
20 limits); *id.* at 3 n.3 (Plaintiff “now on notice that there are consequences” for flouting applicable  
21 rules and orders). In violation of Local Rule 7-2(b), the Motion to Amend memorandum of points  
22 and authorities is in a stand-alone document 31 pages in length. Moreover, Plaintiff’s Motion to  
23 Amend seeks leave to file a ***Sixth Amended Complaint*** to replead previously dismissed and/or

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24 <sup>1</sup> In addition, in violation of Local Rule 7-2(a), Plaintiff noticed the Motion to Amend and Motion  
25 to Disqualify for hearing on February 27, 2025, less than 35 days after they were filed. The Court  
26 has already corrected this error *via* Dkt. 157, which reset the hearing on both Dkt. 155 and Dkt. 156  
27 for March 13, 2025. Because that order does not change Apple’s deadline to oppose to the Motion  
28 to Amend (which is currently February 14, 2025 per Local Rule 7-3(a)), this administrative motion  
for relief is still needed. Apple does not seek administrative relief with respect to any other  
deadlines and will respond to Plaintiff’s Request for Judicial Notice and Motion to Disqualify on  
the schedule dictated by the Rules.

1 abandoned claims, as well as to amend claims that are presently subject to Apple's fully briefed  
2 Motion to Dismiss and which the Court did not give leave to amend. Requiring Apple to brief an  
3 opposition to an overlapping Motion to Amend would impose unnecessary costs and introduce  
4 inefficiencies into these proceedings.

5 Accordingly, Apple requests the Court stay its deadline to respond to Plaintiff's Motion to  
6 Amend and set a briefing schedule, if necessary, at or after the February 21, 2025 case management  
7 conference and hearing on Apple's pending Motion to Dismiss. Apple makes this request in the  
8 interest of judicial economy and to avoid prejudice to Apple if forced to brief issues that have  
9 already been decided by the Court and/or that are presently before the Court in connection with a  
10 different fully-briefed motion. *See Yok Hing L. v. Alameda Cnty. Superior Ct.*, No. C-13-2873  
11 EMC, 2013 WL 12170635, at \*1 (N.D. Cal. Dec. 20, 2013) (noting that "[d]istrict courts have the  
12 inherent power to control their dockets"). Plaintiff's repeated, seriatim, and overlapping filings  
13 attempting to relitigate issues already decided and endlessly expand the scope of this case should  
14 not be permitted to prejudice Apple or consume excessive resources of this Court.

15  
16 Dated: January 31, 2025

ORRICK, HERRINGTON & SUTCLIFFE LLP

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18 By: /s/ Melinda S. Riechert  
19 MELINDA S. RIECHERT  
20 Attorneys for Defendant, Apple Inc.  
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1 **[PROPOSED] ORDER**

2 Good cause appearing, Apple Inc.'s Administrative Motion to Stay its deadline to respond  
3 to Plaintiff's Motion to Amend & Supplement the Complaint (Dkt. 155) is **GRANTED**. The Court  
4 will set a briefing schedule, as necessary, at or after the February 21, 2025 case management  
5 conference and hearing on Apple's pending Motion to Dismiss (Dkt. 145).  
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7 **IT IS SO ORDERED.**

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9 **DATED:**

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The Honorable Edward M. Chen  
11 United States District Court Judge  
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